

§ 102.63

the amount of the benefit(s) provided by the PSOB Program. If no such benefits were provided, the certification must explain whether any survivors are eligible for a death benefit under the PSOB Program and, if so, whether death benefits have been sought under the PSOB Program.

(b) A representative seeking a death benefit under §102.82(d) on behalf of a dependent requester younger than the age of 18 deemed an eligible survivor by the Secretary must submit, in addition to the documentation submitted under subpart F, the following:

(1) Documentation showing that the deceased smallpox vaccine recipient or vaccinia contact is survived by one or more dependents younger than the age of 18. Such documentation must show the date of birth of all such dependents (e.g., copies of birth certificates);

(2) A written selection by each legal guardian, on behalf of all of the dependents described in paragraph (b)(1) of this section for whom he or she is the legal guardian, to receive proportional death benefits under the alternative calculation as described in §102.82(d), in place of proportional benefits available under the standard calculation as described in §102.82(c). Written selections are described in §102.82(d)(1).

(3) Documentation showing that the requester is the legal guardian of all of the dependents described in paragraph (b)(1) of this section, as required under §102.63(b). If multiple dependents have different legal guardians, the legal guardian of each dependent(s) must submit such documentation;

(4) Documentation showing the deceased smallpox vaccine recipient or vaccinia contact's gross employment income at the time the covered injury was sustained (e.g., the decedent's most recent Federal tax return or a pay stub from the time of the covered injury); and

(5) A description of all third-party payors that have paid for or that may be required to pay for the benefits described in §102.82(d)(3)(A). This description must include the amount of such benefits that have been paid or that may be authorized to be paid in the future. If the representative knows of no such third-party payor, he or she must

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certify to that fact. If, at any time, the representative becomes aware that a third-party payor may have such an obligation, he or she must inform the Secretary within 10 business days of becoming aware of this information.

§ 102.63 Documentation a representative filing on behalf of an eligible requester who is a minor or a legally incompetent adult must submit.

Before benefits will be paid under by the Program to an eligible requester who is a minor or legally incompetent adult, his or her representative must submit, in addition to the documentation submitted under subpart F and under §§102.60–102.62, the following:

(a) Documentation showing that the requester is:

- (1) A minor (e.g., birth certificate); or
- (2) A legally incompetent adult (e.g., court decree of incompetency); and

(b) Documentation showing that:

(1) In the case of a minor, the requester is the legal guardian of the minor (e.g., birth certificates for parents who are legal guardians or, for other legal guardians, a decree by a court of competent jurisdiction establishing the legal guardianship of a person other than the minor's parents under applicable State law). If a minor has more than one legal guardian, this information is required only of one legal guardian; or

(2) In the case of a legally incompetent adult, a decree by a court of competent jurisdiction establishing a guardianship or conservatorship of the requester's estate under applicable State law.

Subpart H—Secretarial Determinations

SOURCE: 68 FR 70096, Dec. 16, 2003, unless otherwise noted.

§ 102.70 Determinations the Secretary must make before benefits can be paid.

(a) Before reviewing a Request Package, the Secretary will assign a Program number to the Request Package and so inform the requester (or his or her representative) in writing. All correspondence to the requester (or his or